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**PRESTON
THORGRIMSON
SHIDLER
GATES & ELLIS**

ATTORNEYS AT LAW

RECEIVED

JAN 19 1994

HAZARDOUS WASTE DIVISION

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January 14, 1994

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Randy Smith
Director, Hazardous Waste Division
Region 10
U.S. Environmental Protection Agency
1200 Sixth Avenue
Seattle, Washington 98101

Re: Pasco Sanitary Landfill Site - Petition for Partial
Delisting

Dear Mr. Smith:

Enclosed is a Petition to remove part of the Pasco Sanitary Landfill Site ("Site") from the National Priorities List ("NPL"). As you may know, the Site is also on Ecology's Hazardous Sites List. As such, the Petition is being made jointly to both the Department of Ecology and to the U.S. Environmental Protection Agency. Ms. Carol Fleskes, Manager of Ecology's Toxics Cleanup Program, will receive an original Petition and a complete set of exhibits under separate cover.

As explained in more detail in the Petition, the first phase of the remedial investigation have been completed at the Site. It has now been thoroughly documented that there have been no releases of hazardous substances on the northern 52 acres of this 250 acre Site. In fact, the 52 acre northern parcel was recently permitted by the Benton-Franklin County Health Department, with Ecology's concurrence, for solid waste disposal in new lined landfill cells.

Unfortunately, as a result of the stigma associated with the new landfill cell's location within the boundaries of an NPL site, potential customers are unwilling to use this state-of-the-art facility. The owner and the operator of the new landfill cell are losing money every day that this portion of the Site remains on the NPL. Ultimately, this will make the remediation of the Site more costly for potentially liable parties, including local governments which contributed waste to the old landfill.

Thus, time is of the essence. We ask that EPA (and Ecology) expedite their consideration of this Petition. We understand that

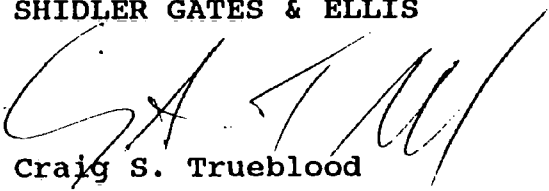


Mr. Randy Smith
January 14, 1994
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there is no specific time-line under which the agencies must respond. We will be contacting your office shortly to determine the amount of time needed to process this Petition and conduct the necessary public comment period. If there is anything we can do to facilitate the process, please do not hesitate to call me directly.

Very truly yours,

PRESTON THORGRIMSON
SHIDLER GATES & ELLIS



Craig S. Trueblood

ccs (w/o Exhibit B, Phase I RI Report):

Carol Fleskes, Ecology - Lacey
Jackson Fox, Regional Counsel
Larry Dietrich, PSL
John Zillich, Technico Environmental

1
2 **BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
3 **AND THE WASHINGTON DEPARTMENT OF ECOLOGY**

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6 In Re:)
7 Pasco Sanitary Landfill)
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PETITION FOR PARTIAL
REMOVAL OF SITE FROM
NPL AND HSL UNDER
CERCLA AND MTCA

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I. INTRODUCTION

By this petition, Pasco Sanitary Landfill, Inc. ("PSL"), requests, pursuant to the provisions of RCW 70.105D.030 and WAC 173-340-330, and 42 U.S.C. § 9605 and 40 CFR Part 300, that the Washington Department of Ecology ("Ecology") and the U.S. Environmental Protection Agency ("EPA") determine and acknowledge that the boundaries established for the Pasco Sanitary Landfill Site, as it is presently described and incorporated into the National Priorities List ("NPL") and the state Hazardous Sites List ("HSL"), erroneously include a large area of uncontaminated property, which as a result is encumbered from further use, to the significant and unnecessary detriment of Petitioner and others. This area, some 52 acres in extent, appears to have been drawn into the "site boundary" simply by virtue of common ownership and without reference to any release or threat of release of hazardous substances or spread of contamination. Petitioner requests that the Site boundaries currently contemplated by

1 Ecology and EPA be corrected to reflect the physical realities
2 of the conditions in this area, and that the NPL and HSL be
3 corrected to reflect those physical realities and to exclude
4 the northernmost 52 acres of the property owned by PSL and
5 leased to New Waste Landfill, Inc. ("NWI"). A map showing the
6 area to be delisted, with a legal description, is attached as
7 Exhibit A.

8 II. BACKGROUND

9 In January 1990, a 250-acre parcel described as the Pasco
10 Sanitary Landfill ("Landfill" or "Site") was added to the
11 National Priorities List at 40 CFR Part 300 Appendix 1, having
12 been proposed for listing in 1988. This listing was
13 apparently based on studies that indicated the possibility of
14 a release of hazardous substances from certain areas in the
15 southerly portion of the Site where previous filling had
16 occurred. The area denominated as the "Site" for purposes of
17 this listing apparently included all property formerly leased
18 to Resource Recovery Corporation ("RRC") and presently owned
19 by PSL. The Site lies approximately 1.5 miles northeast of
20 the City of Pasco. The legal description of the entire Site
21 is as follows:

22 The southwest quarter of Section 15, the northeast
23 quarter of Section 21 and the northwest quarter of
24 Section 22, Township 9 North, Range 30 East,
25 Willamette Meridian, in Franklin County, Washington.

26 Ecology has included the Site on its HSL, apparently with the
same boundaries as the EPA listing.

The south portion of the Site currently is undergoing

1 remedial actions under the authority of the Washington
2 Department of Ecology, as a state-lead action under the
3 Washington Model Toxics Control Act, RCW 70.105D ("MTCA"), and
4 the National Contingency Plan, 40 CFR Part 300 ("NCP").
5 Ecology has entered into an agreement with EPA under which
6 Ecology will determine the actions necessary to address the
7 Landfill. Ecology has entered into an administrative order
8 with PSL and many other "potentially liable persons" or
9 "PLPs," initially providing for remedial
10 investigation/feasibility study ("RI/FS") to define the nature
11 and extent of contamination at the Site. According to the
12 documentation supporting the 1990 listing, the purpose for
13 including the entire property formerly leased by RRC and
14 presently owned by PSL was to ensure that, based upon then-
15 available information, all areas where "hazardous substances"
16 might have been released from past operations at the Site were
17 included within the Site boundaries.

18 This NPL Site, which is apparently coterminous with the
19 Site included on the Washington HSL, now incorporates with its
20 250-acre scope a number of areas where filling activities
21 involving industrial waste, septage and municipal and
22 commercial waste have been conducted in the past. The
23 northerly portion of the property, however, approximately 52
24 acres in area, had not been used for waste management
25 activities at the time all of PSL's property was placed on the
26 NPL and the HSL. A portion of the 52 acre area is currently
subject to a 1993 permit for solid waste disposal issued to

1 NWI as operator and tenant.

2 Extensive testing of soils, soil gas and ground water
3 over the 250 acres presently defined as the "Site" has been
4 undertaken over a period of several years. In addition, an
5 exhaustive Site History was compiled as part of the Phase I
6 RI to document all waste management activity within the Site.
7 Ground water flow directions have been established for the
8 area at and around the Landfill, including the northerly 52
9 acres. In all annual conditions, ground water flows
10 approximately from northeast to southwest. Arid conditions
11 (7 inches of rainfall, 60 inches of evaporation potential)
12 have ensured that there is little, if any, surface water
13 runoff from the Site or from formerly active portions in the
14 south toward the 52 acre area in the north.

15 No contaminants in any media have ever been found in
16 sampling in the 52 acre area. No waste management activities
17 of any kind were identified during the Site history. The
18 Phase I RI Report, which summarizes the data on nature and
19 extent of contaminants for the entire PSL property, is
20 included herewith as Exhibit B.

21 In 1993, PSL's tenant, NWI, applied for and obtained from
22 the Benton-Franklin District Health Department ("Health
23 Department"), with Ecology's review and concurrence, permits
24 to construct and operate a new landfill cell in the north
25 portion of the Site. The permit for operation on the
26 northerly 52 acre parcel is included herewith as Exhibit C.
The legal description of this parcel is as follows:

1 The W 1/2 SW 1/4 NE 1/4 SW 1/4; S 1/2 W 1/2 NW 1/4
2 NE 1/4 SW 1/4; S 1/2 N 1/2 NW 1/4 SW 1/4; S 1/2 NW
3 1/4 SW 1/4; W 1/2 NW 1/4 SE 1/4 SW 1/4; N 1/2 W 1/2
4 SW 1/4 SE 1/4 SW 1/4; SW 1/4 SW 1/4 SE 1/4 SW 1/4;
5 and all that portion southwesterly of a line drawn
6 beginning at a point on the west line of the E 1/2
7 SW 1/4 SE 1/4 SW 1/4 and 600 feet north of the SW
8 corner thereof and extending southeasterly to a
9 point beginning 600 feet east of said SW corner of
10 said E 1/2 SW 1/4 SE 1/4 SW 1/4; all within Section
11 15, Township 9 North, Range 30 E.W.M., Franklin
12 County, Washington.

13 This new landfill cell is designed and constructed in
14 accordance with the requirements of Ecology's regulations
15 governing management of solid waste (WAC 174-304) and
16 requirements of the Franklin County Department of Health.
17 These include a composite liner, leachate collection and
18 treatment, landfill gas collection and treatment, ground water
19 monitoring, storm water diversion, and the other requirements
20 set forth in the permit. However, the new cell is located
21 within the area defined prior to completion of the Phase I RI
22 as the "facility" and is therefore part of the "Site" for
23 purposes of the NPL. As a result, potential NWI customers
24 are not willing to expose themselves to potential liability
25 from using the new landfill cell, solely as a result of its
26 present characterization as part of an NPL Site.

Not all of the 52 acre north area is needed for lined
landfill purposes. Portions could also be utilized for
related waste management activities, such as inert and
demolition waste fill, asbestos disposal and yard waste
composting. NWI has an application pending before the Health
Department and Ecology to begin inert and demolition waste

1 filling in the southeast section of the north 52 acre area.
2 However, customers are reluctant to commit to using any
3 portion of an NPL Site because of potential liability.

4 By granting the solid waste permit, the Health Department
5 and Ecology have both acknowledged that the 52 acre north area
6 can be used for new solid waste management activities without
7 affecting either the RI/FS or the ultimate remedial action(s)
8 at the Site. Ecology has also expressed its view on NWI's
9 customers' liability in a letter to counsel for NWI dated June
10 15, 1992 and attached as Exhibit D: "There would be no
11 cleanup liability to those 'generators' who dispose of waste
12 in a new cell if there is no release of a hazardous substance
13 from the cell which poses a threat to human health or the
14 environment." Nonetheless, the reality for NWI and its
15 customers is that the new landfill cell is part of the NPL
16 Site and they will not risk any potential exposure to
17 liability for contamination in the southern portion of the
18 Site by sending waste to the new cell.

19 Removing the 52 acre permitted area would formally
20 acknowledge what has been demonstrated by the Phase I RI and
21 would assure customers that they are not bringing waste to an
22 NPL Site. PSL realizes Phase II of the RI/FS is about to
23 start and believes efforts should be concentrated on the old
24 disposal units in the southern portion of the Site. By
25 removing the 52 acre north area, all PLPs would be assured
26 that no additional money need be spent on this portion of the
Site. Equally important, PSL's primary source of income is

1 its lease with NWI. If NWI is unable to remain a viable
2 economic entity, PSL will be unable to continue its financial
3 participation in the RI/FS process at the Site.

4 III. MTCA SITE DELISTING PROCESS

5 Ecology's fundamental authority under MTCA is to
6 identify, investigate and conduct cleanups of releases of
7 hazardous substances. RCW 70.105D.030(1). This
8 responsibility is carried out in significant part through a
9 system of priorities to address releases or threats of
10 releases at "sites" in Washington, including NPL sites
11 identified by EPA.

12 "Site" is defined to mean the same as "facility," and the
13 definition of "facility" is as follows:

14 (a) any building, structure, installation,
15 equipment, pipe or pipeline (including any pipe into
16 a sewer or publicly owned treatment works), well,
17 pit, pond, lagoon, impoundment, ditch, landfill,
18 storage container, motor vehicle, rolling stock,
19 vessel or aircraft, or (b) any site or other area
20 where a hazardous substance, other than a consumer
21 product in consumer use, has been deposited, stored,
22 disposed of or placed, or otherwise come to be
23 located. RCW 70.105D.020(3).

24 It is clear that the system of priorities established
25 under MTCA -- the HSL, developed under the Washington Ranking
26 Method -- is intended to include only sites, in the sense of
land areas, at which there is a release or threat of release,
and where "hazardous substances" have "otherwise come to be
located." It strains common sense and the structure of MTCA,
as well as the technical realities and resource limitations
that apply to remediation of hazardous substance releases

1 under Ecology's program, to maintain that "sites" or
2 "facilities" should continue to be defined to include
3 significant parcels demonstrated to be free from contamination
4 and requiring no remedial action.

5 Under MTCA and regulations adopted by Ecology, a process
6 has been established for listing sites -- and for removing
7 sites from the HSL -- where the Department has determined that
8 remedial action is -- and is not -- necessary. RCW
9 70.105D.030. WAC 173-340-330(3) and (4) govern listing of
10 sites and removing sites from the list. Subsection (3)
11 provides for listing "if, after completion of a site hazard
12 assessment, the department has determined that further action
13 is required at the site." The list is to be updated at least
14 yearly. Most important, the list is required to "reflect the
15 current status of remedial action at each site." WAC 173-340-
16 330(a).

17 In apparent recognition that studies subsequent to the
18 site hazard assessment may not support any need for further
19 action, the regulations provide for removing sites from the
20 list on the basis of determinations that (1) "all remedial
21 actions except conformational monitoring have been completed
22 and compliance with cleanup standards has been achieved at the
23 site;" or -- of particular interest in this matter -- (2) "the
24 listing was in error." WAC 173-340-330(4)(a)(i) and (ii).

25 Ecology has prescribed a process for bringing the listing
26 information into conformity with actual conditions. The
owner, operator or a potentially liable person may petition

1 Ecology to remove the Site from the list. The petition should
2 include "thorough documentation" of all investigations and
3 compliance monitoring performed to demonstrate that either (1)
4 the listing was in error or (2) that all necessary remedial
5 action has been completed.

6 IV. GROUNDS FOR PARTIAL REMOVAL FROM HAZARDOUS SITES LIST

7 Petitioner recognizes the burden of "proving a negative,"
8 with respect to the conditions on the northern 20 per cent of
9 the property initially identified by Ecology and EPA as the
10 Pasco Sanitary Landfill Site. However, as demonstrated in the
11 attached Phase I RI Report, including its compilation and
12 review of data on past analytical work at the Site, it is
13 apparent that the portion of the Site north of the limits of
14 areas affected by past operations on the southerly,
15 downgradient portion of the Site, simply has not been affected
16 by any release or threat of release of hazardous substances
17 in any way or to any degree that would require action under
18 MTCA or the Comprehensive Environmental Response, Compensation
19 and Liability Act, 42 U.S.C. §§ 9601 et seq. ("CERCLA").

20 For Ecology to decline or to defer consideration and
21 granting of this Petition would be action that is arbitrary
22 and capricious and not in accordance with law. If Ecology
23 fails to timely determine this Petition in favor of PSL, it
24 will cause irreparable harm to PSL and others, and deny PSL
25 due process of law. PSL also requests Ecology's assistance
26 in working with EPA to ensure that the characterization of the
boundaries of the Site for purposes of the NPL also reflects

1 the physical realities on the northern 52 acres of this Site.

2 **V. CERCLA SITE DELISTING PROCESS**

3 Under Sections 105(a) and (c) of CERCLA, Congress
4 directed EPA to set up processes for identifying and ranking
5 "accurately," "to the maximum extent practicable," the threats
6 posed to human health and the environment by "sites and
7 facilities" with "releases or threats of releases" of
8 hazardous substances. 42 U.S.C. §§ 9605(a) and (c). The term
9 "site" is not defined; "facility" is defined, as under MTCA,
10 as:

11 (A) any building, structure, installation,
12 equipment, pipe or pipeline (including any pipe into
13 a sewer or publicly owned treatment works), well,
14 pit, pond, lagoon, impoundment, ditch, landfill,
15 storage container, motor vehicle, rolling stock, or
16 aircraft, or (B) any site or other area where a
17 hazardous substance has been deposited, stored,
18 disposed of, or placed, or otherwise come to be
19 located; but does not include any consumer product
20 in consumer use or any vessel. 42 U.S.C. 9601(9).

21 As under MTCA, it is apparent that Congress did not
22 intend EPA's or others' resources to be expended on
23 unnecessary studies or response actions at locations which
24 pose no significant threat to human health or the environment
25 because there is no release or threat of release of hazardous
26 substances. EPA has also developed procedures and criteria
for deletion of sites from the NPL. These are set forth at
40 CFR 300.425, and provide as follows:

24 (e) Deletion from the NPL. Releases may be deleted
25 from or recategorized on the NPL where no further
26 response is appropriate.

(1) EPA shall consult with the state on proposed
deletions from the NPL prior to developing the

1 notice of intent to delete. In making a
2 determination to delete a release from the NPL, EPA
3 shall consider, in consultation with the state,
4 whether any of the following criteria has been met:

- 5 (i) Responsible parties or other persons have
6 implemented all appropriate response actions
7 required;
8 (ii) All appropriate Fund-financed response under
9 CERCLA has been implemented, and no further response
10 action by responsible parties is appropriate; or,
11 (iii) The remedial investigation has shown that
12 the release poses no significant threat to public
13 health or the environment and, therefore, taking of
14 remedial measures is not appropriate. (Emphasis
15 added).

16 As with the process under MTCA, there is a requirement
17 for public notice and comment on any decision to delete a site
18 from the NPL. 40 CFR 300.425(4). PSL also requests that
19 EPA's assistance in working with Ecology to ensure that the
20 boundaries of the Site for purposes of the HSL also reflect
21 the physical realities on the northern 52 acres of the Site.

22 VI. GROUNDS FOR PARTIAL REMOVAL FROM NPL

23 As noted herein, extensive testing and an exhaustive site
24 history of the entire Site demonstrates no releases on the 52
25 acre area. This 52 acre area does not pose any threat to
26 human health or the environment and requires no cleanup action
or further study. Submitted in support of this conclusion is
Exhibit B, the Phase I RI Report for the entire 250 acre Site,
showing that there could not have been, at the time of
listing, conditions on the north 52 acres supporting any
possibility of a threat to human health or the environment or
any release on that parcel sufficient to warrant remedial
action under CERCLA.

1 Should EPA decline or defer consideration and granting
2 of this petition, that would constitute action that is
3 arbitrary and capricious and not in accordance with law. If
4 EPA fails to timely determine this petition in favor of PSL,
5 it will cause irreparable harm to PSL and others, and deny PSL
6 due process of law.

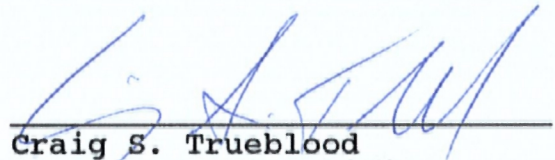
7 **VII. CONCLUSION**

8 For the reasons stated above, Petitioner respectfully
9 requests that Ecology and EPA delist the northern 52 acres
10 within the legal description set forth in Section II above to
11 make it clear that this parcel is not within the HSL Site
12 designated by Ecology under MTCA and is not part of the NPL
13 Site designated by EPA under CERCLA, and thereby allow
14 continued operation of the area under the validly obtained
15 permits covering operation of the new cell and related waste
16 management activities in that permitted area.

17 Respectfully submitted this 14th day of January, 1994.

18
19 PRESTON THORGRIMSON
20 SHIDLER GATES & ELLIS

21
22 by:


23 Craig S. Trueblood
24 Attorneys for Petitioner
25 Pasco Sanitary Landfill, Inc.
26

1 STATE OF WASHINGTON)
2) ss. VERIFICATION
3 County of Franklin)

4 Larry Dietrich, on oath, says:

5 1. I am President of the above Petitioner, Pasco Sanitary
6 Landfill, Inc.

7 2. I have read the foregoing "Petition for Partial Removal
8 From NPL and HSL Under CERCLA and MTCA," know the contents,
9 and believe the contents to be true.

10 Larry Dietrich
11 Larry Dietrich

12
13 Subscribed and sworn before me this 13 day of
14 January, 1994.

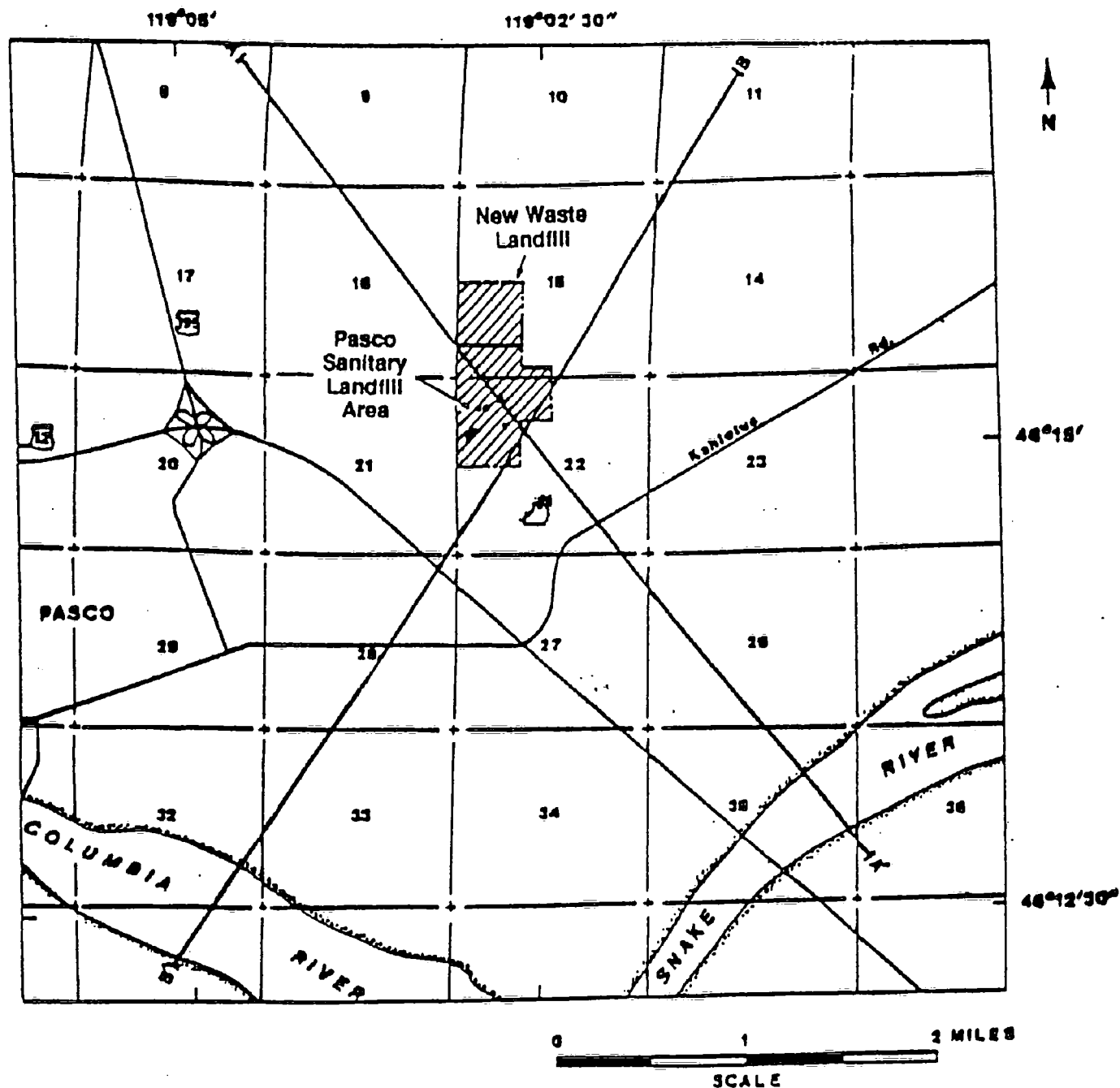
15 Laura Dean
16 _____

17 Notary Public in and for the
18 State of Washington residing at

19 Pasco
20 _____

21 TAMARA D. DEAN
22 COMMISSION EXPIRES 08-10-94
23
24
25
26

EXHIBIT A



The W 1/2 SW 1/4 NE 1/4 SW 1/4; S 1/2 W 1/2 NW 1/4 NE 1/4 SW 1/4; S 1/2 N 1/2 NW 1/4 SW 1/4; S 1/2 NW 1/4 SW 1/4; W 1/2 NW 1/4 SE 1/4 SW 1/4; N 1/2 W 1/2 SW 1/4 SE 1/4 SW 1/4; SW 1/4 SW 1/4 SE 1/4 SW 1/4; and all that portion southwesterly of a line drawn beginning at a point on the west line of the E 1/2 SW 1/4 SE 1/4 SW 1/4 and 600 feet north of the SW corner thereof and extending southeasterly to a point beginning 600 feet east of said SW corner of said E 1/2 SW 1/4 SE 1/4 SW 1/4; all within Section 15, Township 9 North, Range 30 E.W.M., Franklin County, Washington.

EXHIBIT C

Permit No. BFHD: 93-930Issuance Date: May 28, 1993Expiration Date: December 31, 1994

SOLID WASTE DISPOSAL OPERATING PERMIT

BENTON-FRANKLIN HEALTH DISTRICT
800 West Canal Drive
Kennewick, WA 99336
Phone (509) 582-7761

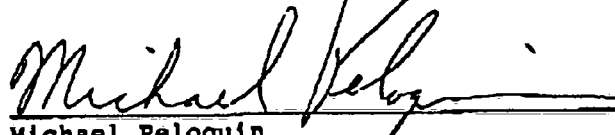
Mr. Larry Dietrich
dba New Waste, Inc.
P. O. Box 484
Pasco, WA 99301
Phone (509) 547-4802 at site
(509) 545-8155 home

Designation of Operation: New Waste Landfill, Inc.

Location of Operation: One and one-half miles North of Pasco/Kahlotus Highway
on Dietrich Rd.

Type of Operation: MUNICIPAL SOLID WASTE LANDFILL
INERT AND DEMOLITION WASTE LANDFILL

The owner/operator is hereby authorized to operate & maintain the aforementioned solid waste landfill in accordance with Chapter 70.95 RCW as amended, and WAC 173-304 Minimum Functional Standards for Solid Waste Handling as amended; other federal, state and local laws, rules and regulations, including zoning laws; and in accordance with the special and general conditions contained in this permit, and as the same may hereafter be amended, and the plans and specifications filed with the application. Nothing herein shall be deemed to relieve the permittee from compliance with any such laws, rules and regulations. By acceptance of this permit, the permittee acknowledges that the duty of compliance and conformance with all laws, rules, and regulations rest on the permittee.


Michael Feloquin
Solid Waste Program
Benton-Franklin Health District

1. GENERAL INFORMATION

A. Name of Site New Waste Landfill, Inc.

B. Address
P.O. Box 484
Pasco, Washington 99301
Phone: 547-4802

C. Legal Description

The legal description of the New Waste, Inc. Landfill is specifically as follows:

The W1/2 SW1/4 NE1/4 SW1/4 and S1/2 W1/2 NW1/4 NE1/4 SW1/4 and S1/2 N1/2 NW1/4 SW1/4 and S1/2 NW1/4 SW1/4 and W1/2 NW1/4 SE1/4 SW1/4 and N1/2 W1/2 SW1/4 SE1/4 SW1/4 and SW1/4 SW1/4 SE1/4 SW1/4 and all that portion Southwesterly of a line drawn beginning at a point on the west line of the E1/2 SW1/4 SE1/4 SW1/4 and 600 feet north of the SW corner thereof and extending southeasterly to a point on the south line of said SE1/4 SW1/4, said point being 600 feet east of SW corner of said E1/2 SW1/4 SE1/4 SW1/4 of Section 15, Township 9 North, Range 30 EWM, Franklin County, Washington.

D. Property Tax Account No. 113-200-07200

2. RECORD KEEPING AND REPORTING:

- A. For each measurement taken, the permittee shall record the following information: (1) the date, exact place and time of sampling; (2) the dates the analyses were performed; (3) who performed the analyses; (4) the analytical techniques or methods used; and (5) the results of all analyses.
- B. Monitoring reports shall be submitted no later than two (2) weeks following the receipt of the completed laboratory results. The report shall be sent to the Benton-Franklin Health District, 800 West Canal Drive, Kennewick, WA 99336.
- C. Samples and measurements taken to meet the requirements of this permit shall be representative of the volume and nature of the monitored parameter, location, or discharge.
- D. Random inspections for hazardous waste will be conducted on incoming loads. An inspection record of all findings, including date, nature of materials, and signature of inspector.
- E. The owner or operator must record and retain near or at the facility an operating record consisting of all operating reports, inspections, and monitoring data.

Solid Waste Disposal Operating Permit
Page 2

- F. The permittee shall maintain daily operating records on the weights or volumes, number of vehicles entering and the types of wastes received and recycled. Major deviations from the "Plan of Operation" shall be noted on the operating record. The permittee shall follow the submitted "Plans of Operation" as noted below:

General Operations Plan - December 1992

Amendments to these plans will require review and approval by Benton-Franklin Health District.

- G. Current operating records shall be maintained by the operator, shall be stored for a minimum period of three (3) years, and shall be made available for inspection by the BFHD upon reasonable request. This period of retention shall be extended during the course of any unresolved litigation regarding the site and facility operation or when requested by the BFHD.

3. ANNUAL REPORT

The permittee shall prepare and submit a copy of an annual report to the BFHD and WDOE by March 1 of each year. The annual report shall cover facility activities during the previous year and must include as a minimum the following information:

- (1) Name and address of the facility.
- (2) Calendar year covered by the report; and
- (3) Remaining capacity in the active cell and annual quantity in tons or volume, in cubic yards, of solid waste received at the facility, by type of waste; and also quantities and types of waste recycled at the facility, and the destination of the wastes, for purposes of determining progress towards achieving goals of waste reduction and waste recycling and treatment in accordance with RCW 70.95.010 (4).
- (4) Annual summary of methane gas monitoring results.
- (5) Annual Ground Water monitoring report shall include the following:
 - (a) A statistical summary which includes all summary statistics on background and compliance data and statistical test results for the year including any findings of any statistical increases;
 - (i) the background mean;
 - (ii) the background variance;
 - (iii) the standard deviation of the background data;

Solid Waste Disposal Operating Permit
Page 3

- (iv) the coefficient of variation of the background data;
 - (v) standard error of the background data;
 - (vi) other statistical testing for homogeneity of variances and the normality of background data.
- (b) A summary of ground water flow rate and direction for the year, noting any change to the rate and direction of ground water flow;
- (c) A potentiometric surface map for each quarter or semi-annual period; and
- (d) A summary of the geochemical evaluation noting any changes or trends in the cation-anion balances, Trilinear diagrams and general water chemistry for each well.
- (6) Financial assurance must be adjusted annually for inflation or other economic trends that may affect the closure/post-closure cost estimates and submitted to the Benton-Franklin District Health Department for review and approval.
- (7) Projected date of closure for the active cell.

4. INSPECTIONS

- (A) The permittee shall inspect the facility at least daily to prevent malfunction and deterioration, operator errors and discharges which may cause or lead to the release of wastes to the environment, a threat to human health, or a nuisance. The permittee must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment. The permittee shall keep an inspection log or summary including at least the date and time of inspection, the printed name and the handwritten signature of the inspector, a notation of observations made and the date and nature of any repairs or corrective action. The log or summary must be kept available for at least three (3) years from the date of inspection. Inspection records shall be available to BFHD upon request.
- (B) Any duly authorized officer, employee, or representative of BFHD or WDOE may, upon presentation of credentials and such other documents, as may be required by law, enter and inspect any property, premises or place on or related to the site/facility at any reasonable time for the purpose of determining compliance with this permit, to inspect or copy any records that must be kept under the terms and conditions of this permit, or for obtaining samples of the groundwater, surface water, leachate, or gaseous emissions. This permit may be subject to suspension at any time BFHD determines that the site or solid waste facility located on

Solid Waste Disposal Operating Permit
Page 4

the site is being operated in violation of Chapter 70.95 RCW; Chapter 173-304 WAC, local laws and regulation, or other conditions set forth in the permit. The permittee shall be given written notice of non-compliance, required corrective actions, and a time to implement corrective actions.

5. COMPLIANCE SCHEDULE:

- (A) Addendum to New Waste, Inc. Closure and Post Closure Trust Agreements must be signed and executed by June 30, 1993.
- (B) The Leachate collection pump approved by the Benton-Franklin Health Department must be installed by June 15, 1993.
- (C) This permit may be amended by certified letter from the Health Officer, or his authorized designee, at any time prior to its expiration date should circumstances or conditions arise which require immediate compliance for the protection of the public health, welfare, or safety.

6. GROUNDWATER MONITORING SCHEDULE:

- (A) The sampling frequency and constituents tested for in the ground water monitoring wells are as follows:
 - WAC 173-304-490 (2d), quarterly
 - EPA 40 CFR Part 258.54 Appendix I, semiannually
- (B) Groundwater samples shall not be field filtered prior to lab analysis.
- (C) Groundwater direction, elevations, and flow direction will be measured when each well is sampled. Note: Groundwater elevation must be measured prior to purging.
- (D) Groundwater samples must be compared to background monitoring results for a significant increase. The significant increase will be determined with an approved statistical method as defined by 40 CFR 258.53.(g) and comply with the performance standards in WAC 173-304.
- (E) Groundwater data and results must be certified by a qualified groundwater scientist as defined by 40 CFR 258.50 (f) and 40 CFR 258.51 (d)(2).

7. LEACHATE AND METHANE MONITORING

- (A) Collected Leachate must be sampled and designated in accordance with WAC 173-303 prior to disposal at a facility approved by BFHD.
- (B) Methane monitoring will be conducted quarterly.

Solid Waste Disposal Operating Permit
Page 5

8. GENERAL CONDITIONS.

- (A) Solid waste shall be compacted daily and covered at the end of each working day with a minimum of six inches of soil.

NOTE: If six inches of cover is not sufficient to preclude any visible waste additional cover will be required.

- (B) Windblown litter prevention and collection shall be an active part of the daily operation of the landfill. The construction and placement of portable litter fences is encouraged.
- (C) Malodorous materials such as spoiled foods, animal tissues, and biomedical wastes shall be immediately covered with compacted cover material or other solid wastes.
- (D) No friable asbestos shall be disposed of at this site.
- (E) Acceptance of hazardous and dangerous waste as designated by WAC 173-303 is expressly prohibited.
- (F) The BFHD may establish specific monitoring requirements beyond those identified in this permit by certified letter from the Health Officer or his authorized designee.
- (G) If any part, section, sentence, or paragraph of this permit should be suspended by appropriate action of the BFHD, or found invalid by a tribunal or court of competent jurisdiction, the remainder of this permit shall not be affected thereby.
- (H) Nothing in this permit shall be construed as excusing the permittee from compliance with any applicable federal, state or local statutes, ordinances, orders, or regulations.



**BENTON - FRANKLIN
DISTRICT HEALTH DEPARTMENT**

506 McKENZIE
(509) 943-2614
RICHLAND, WA 99352

Larry D. Jecha, M.D., M.P.H.
District Health Officer
Harriell M. Sprouse, R.N., M.S.
Director, Personal Health Services
Bruce G. Perkins
Director, Environmental Health Services
Fred C. Jamison
Administrator

January 15, 1993

Mr. Larry Dietrich
dba New Waste Landfill Inc.
P.O. Box 424
Pasco, WA 99301

Dear Mr. Dietrich:

Enclosed is your permit to construct the New Waste Landfill, subject to the conditions noted therein. This permit is also subject to the review and approval of the Washington State Department of Ecology pursuant to WAC 173-304-600 (2) procedures for permits.

Prior to the issuance of an operating permit the following will require approval:

1. Closure, post-closure agreements.
2. State waste discharge permit.
3. Final approval of construction.

Be advised that the Tri-County Air Pollution Control Authority permit must be issued prior to construction per Chapter 173-400 WAC.

The Health Department is willing to meet with any and all parties involved to discuss any issues that require further clarification. If you would like to arrange a meeting or have any questions, please contact this office, phone 582-7761.

Sincerely,

Michael Peloquin
Environmental Health Specialist
Solid Waste Program

MP:kir

Enclosures

cc: Mike Hibbler, Washington Department of Ecology

Permit No. BFHD: 93-48700Issuance Date: January 11, 1993Expiration Date: January 11, 1994**SOLID WASTE DISPOSAL CONSTRUCTION PERMIT**

BENTON-FRANKLIN HEALTH DISTRICT
800 West Canal Drive
Kennewick, WA 99336
Phone (509) 582-7761

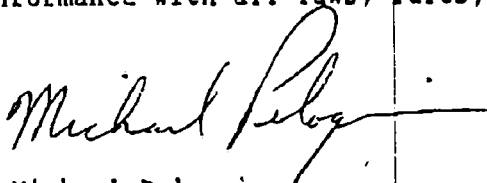
Mr. Larry Dietrich
New Waste Landfill Inc.
P. O. Box 424
Pasco, WA 99301
Phone: (509) 547-4802 at site
(509) 545-8155 home

Designation of Construction: New Waste Landfill Inc.

Location of Construction: One and one-half miles North of Pasco/Kahlotus Highway

Type of Construction: SANITARY LANDFILL
INERT AND DEMOLITION WASTE LANDFILL

The owner/operator is hereby authorized to construct the aforementioned solid waste project in accordance with Chapter 70.95 RCW as amended, and WAC 173-304 Minimum Functional Standards for Solid Waste Handling as amended; other federal, state and local laws, rules and regulations, including zoning laws; and in accordance with the special and general conditions contained in this permit, and as the same may hereafter be amended, and the plans and specifications filed with the application. Nothing herein shall be deemed to relieve the permittee from compliance with any such laws, rules and regulations. By acceptance of this permit, the permittee acknowledges that the duty of compliance and conformance with all laws, rules, and regulations rests on the permittee.



Michael Peloquin
Environmental Health Specialist
Solid Waste Program

Page 2

Permit - Larry Dietrich
New Waste Landfill

1. The construction must be contained within the following boundaries and meet all set backs as stated in WAC 173-304-130 Locational Standards for Disposal Sites.

The legal description of the New Waste Inc. Landfill is specifically described as follows: The North 1,350 feet of the following described parcel; The Southwest quarter of Section 15, Township 9 North, Range 30 E.W.M; the South one-half of the Northwest quarter of the Southwest quarter; the South one-half of the West one-half of the West one-half of the Northeast quarter of the Southwest quarter; the West one-half of the West one-half Southeast quarter of the Southwest quarter of Section 15, Township 9 North, Range 30 East W.M., Franklin County, Washington.

2. The permittee shall notify the Environmental Health Department of date, time, place and receive confirmation at least one week prior to the pre-construction meeting.
3. Deviations from the approved engineering construction plan must be submitted for review and approval prior to construction.
4. The permittee must comply with all provisions of WAC 173-304-460 Landfilling Standards and all other applicable federal, state and local statutes, rules, regulations, orders and ordinances in the construction of this facility, and shall not cause or create a nuisance thereby.
5. Record Keeping and Reporting:
 - a. For each measurement or sample taken, the permittee shall record the following information: (1) the date, exact place and time of sampling; (2) the dates and analyses that were performed; (3) who performed the analyses; (4) the analytical techniques or methods used; and (5) the results of all analyses; (6) Chain of custody.
 - b. Samples and measurements taken to meet the requirements of this permit shall be representative of the volume and nature of the monitored parameter, location, or material.
 - c. All quality assurance reports and tests shall be submitted no later than one (1) week following the receipt of the completed laboratory results. The report shall be sent the Benton-Franklin Health District, 800 West Canal Drive, Kennewick, WA 99336.
6. This permit may be amended by certified letter from the Health officer, or his authorized designee, at any time prior to its expiration date should circumstances or conditions arise which require immediate compliance for the protection of the public health, welfare, or safety.

Page 3

Permit - Larry Dietrich
New Waste Landfill

7. Final Certification from the engineer for the construction of the landfill and it's appurtenances must be submitted prior to this department's final approval. This will include, but is not limited to:
- A. A summary of all construction activities
 - B. A summary of all laboratory and field test results
 - C. Sampling and testing location drawings
 - D. A description of significant construction problems and the resolution of these problems
 - E. A list of changes from the construction drawings and specifications and the justification for these changes
 - F. As-built record drawings
 - G. A statement of compliance with the construction contract documents and design intent signed and stamped by a professional engineer(s) registered in the state of Washington.

The as-built record drawings will accurately locate the constructed location of all work items, including the location of piping, anchor trenches, etc. All surveying and base maps required for the development of the record drawings will be prepared by the contractor. The engineers shall review and verify that as-builts are correct. As-builts will be included in the final construction report.

Compliance with these requirements does not relieve the permittee from responsibility to maintain continuous compliance with the conditions of this permit or the resulting liability for failure to comply.

Nothing in this permit shall be construed as excusing the permittee from compliance with any applicable federal, state or local statutes, ordinances, orders or regulations.

Nothing in this construction permit shall be considered as an approval for operations of a municipal solid waste landfill and shall be considered an approval for construction only.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Mail Stop PV-11 • Olympia, Washington 98504-8711 • (206) 459-6000

June 15, 1992

Craig Trueblood
Preston Thorgrimson Shidler Gates & Ellis
Seafirst Financial Center
Suite 1400
Spokane, Washington 99201

Dear Mr. Trueblood:

You asked us about the potential liability of a person disposing of waste in a new cell at the Pasco Landfill. Your interpretation is correct. There would be no cleanup liability to those "generators" who dispose of waste in a new cell if there is no release of a hazardous substance from the cell which poses a threat to human health or the environment.

However, the parties involved also need to be aware of who may be potentially liable if there is a future release of a hazardous substance requiring remedial action. The "generators" who dispose of solid waste in a new cell could become potentially liable persons (PLPs) for the cleanup of hazardous substances in the event a release of a hazardous substance is discovered at the new cell location. Consequently, adequate site studies and ongoing performance monitoring must be designed to distinguish potential new cell impacts from current contamination at the Pasco Landfill site.

Also, the existing PLPs at the Pasco Landfill should be informed of their potential future liability, should a release of a hazardous substance be discovered at a new cell. Once again, a thorough investigation at the location of a new cell before it is ever constructed, would be necessary to assist in determining whether the existing PLPs would be liable for additional remedial actions.

If the existing contamination at the Pasco Landfill site were to migrate to the location of a new cell, the existing PLPs should also consider what effect that would have on their cleanup actions and costs. Could the physical presence of a new cell hamper cleanup actions or increase cleanup costs?

I trust these possible scenarios will be evaluated by your client when making decisions concerning a new cell on the Pasco Landfill site.

Sincerely,

Carol L. Fleakes

Carol L. Fleakes, Program Manager
Toxic Cleanup Program

CLF:CD:cp